

# UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

United States of America  
v.  
Kenny Montana Holton

Date of Original Judgment: 02/23/1999

Date of Previous Amended Judgment: 01/24/2002

(Use Date of Last Amended Judgment if Any)

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Case No: 4:98-CR-9-6H

USM No: 35212-037

Thomas P. McNamara

Defendant's Attorney

## ORDER REGARDING MOTION FOR SENTENCE REDUCTION PURSUANT TO 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

**IT IS ORDERED** that the motion is:

☒ **DENIED.** ☐ **GRANTED** and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of \_\_\_\_\_ months **is reduced to** \_\_\_\_\_

At sentencing, the court held defendant responsible for 3 kg of crack cocaine, resulting in a base offense level of 36 and total offense level of 38. While the application of the Fair Sentencing Act of 2010 retroactive amendment results in a lower guideline imprisonment range, the resulting guideline range is still in excess of the statutory maximum to which the defendant was sentenced. Therefore, the defendant is not eligible for relief.

If the amount of time the defendant has already served exceeds this sentence, the sentence is reduced to a "Time Served" sentence, subject to an additional period of up to ten (10) days for administrative purposes of releasing the defendant.

(Complete Parts I and II of Page 2 when motion is granted)

Except as otherwise provided, all provisions of the judgment(s) dated February 23, 1999, and January 24, 2002 shall remain in effect. **IT IS SO ORDERED.**

Order Date: 3/27/13

  
Judge's signature

Effective Date: \_\_\_\_\_

(if different from order date)

Malcolm J. Howard, Senior U.S. District Judge

Printed name and title